WP(C) 5282/2007

BEFORE

HON'BLE THE AMITAVA ROY

The grievance registered is against denial of financial assistance to the petitioner Schools in terms of the Government policy promulgated therefor.

Heard Mr. P.K. Roychoudhury, learned Counsel for the petitioners and Mr. Mishra, learned Standing Counsel, Education Department, for the official respondents. Also heard Ms. Verma, learned Standing Counsel, Finance Department.

The petitioner schools are located in the District of Lakhimpur, Assam. They have in clear terms disclosed that from the date of their establishment, from time to time the concerned authorities of the Education Department of the State have been conducting inspection of their institutions. Their complaint is that in the meantime many schools established after them had already been taken over by the Government. Further, though under the aforementioned policy, needy venture Lower Primary Schools have been decided to be extended financial assistance, the petitioner schools though senior in terms of their establishment, have been left out and vide the impugned orders dated 12/12/2005 and 24/2/2006 financial grant has been sanctioned to schools established after them. On the said pleadings, the petitioners have prayed for a writ of mandamus directing the respondent authorities to provide financial assistance to them as per the policy and criteria prescribed therein.

The learned counsel for the respondents have fairly submitted that in the face of the Government policy and the parameters contained therein for determining the eligible educational institutions to be entitled to the financial assistance comprehended therein, the respondent authorities are obliged in law to conform to the same.

I have extended my consideration to the rival submissions and the materials available on record. This Court amongst others in WP(C) 4278/2004, All Assam Recognized Middle English Teachers Association versus the State of Assam, and others, while exhaustively dwelling on the Cabinet Memorandum dated 9/6/2005 engrafting the policy to provide financial grant to educational institutions and the criteria adopted therefor had ruled that the selection of such institutions would be primarily on the basis of seniority as per the date of recognition/concurrence as applicable, deviation wherefrom would be permissible in respect of institutions with disadvantageous locations like border areas, char areas, tea and ex-tea garden areas, areas predominated by weaker sections of the society like SC, ST, OBC and minorities, where in the opinion of the Government, there is urgent need to set up educational institutions. Relaxation on this count may also be considered keeping in view the specific need for girl's education in some areas.

Performance of the educational institutions and their enrolments shall also be taken into account in selection of the schools for financial assistance. This Court, however, made recording of reasons to be obligatory in case of flexing of the fundamental criteria of seniority in the above eventualities. Incidentally, a Division Bench of this Court has also upheld the said determination.

In the above factual premise there is no escape from the conclusion that for ascertaining an educational institution to be eligible for the financial grant, the primary touchstone would be that of seniority thereof determinable by the date of its establishment/recognition/concurrence, as the case may be and that the other conditions permitting relaxation thereof, can be resorted to for reasons to be recorded.

In the above view of the matter, I consider it to be in the interest of justice, to close this petition with the direction to the state respondents, more particularly, the Commissioner and Secretary, Government of Assam, Education Department (Elementary) and Director of Elementary Education, Assam, to cause immediate steps to examine the petitioners' claim in the touchstone of the extant Government policy and if on such scrutiny, these are found to satisfy the conditions of eligibility mentioned therein, they would take appropriate decisi

on(s) to redress the grievances raised in accordance with law. This exercise as ordered above should be completed within a period of 6(six) weeks, from the date of receipt of the certified copy of this order. No costs.